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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 01/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/550,192

Applicant(s)

TANG ET AL.

Examiner

Steven R. Wasylchak

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 1b)ii) ("selected type B" : which type B); * claim 1b)iii) ("at least one" is open ended); claim 6 b)iii)B) and claim 6 b)iii)C) and claim 7iv)B) and claim 7iv)C)("some": which one of the PAK and which one of the PROC modules) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yates et al (US 6,330,586).

As per claim 1,

A method of constructing a plurality of software systems, comprising the following steps:

a) maintaining an inventory of software modules, which includes:

i) a group of type A modules; and / abstract; col 2, L 57-65; col 4, L 3-12; col 5, L 40-55; col 18, L 1-13

ii) a collection of type B modules;/ abstract; col 2, L 57-65; col 4, L 3-12; col 5, L 40-55; col 18, L 1-13

b) when constructing each software system,

i) including copies of the entire group of type A modules;/ col 18, L 1-13

ii) including copies of selected type B modules; and / col 18, L 1-13

iii) generating at least one customized module, which is a copy of

neither a type A nor a type B module./ abstract; col 2, L 57-65; col 4, L 3-12; col 5, L 40-55; col 18, L 1-13

As per claim 2,

Method according to claim 1, wherein each system constructed performs the following functions:

1) processing of the content of messages;/ col 1, L 1-5; col 2, L 57-65; col 4, L 3-12; col 16, L 11-23

2) packaging of messages into packets for transport out of the system;/ col 14, L 37-51; col 18, L 9-13

3) transfer of messages into, and out of, the system; and/col 5, L 40-55

4) coordination of functions (1), (2), and (3)./ col 4, L 3-12

As per claim 3,

Method according to claim 2, wherein functions (3) and (4) are performed using type A modules exclusively./ col 18, L 1-13

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As per claim 4,

Method according to claim 3, wherein function (1) is performed using a combination of type A, type B, and customized modules./ col 4, L 26-35; col 18, L 1-13

As per claim 5,

Method according to claim 4, wherein function (2) is performed using a combination of type A, type B, and customized modules./ col 4, L 26-35; col 18, L 1-13

As per claim 6,

An expedited method of assembling a software system, comprising the following steps:

a) fabricating a collection of software systems, each of which contains/ abstract;
col 2, L 38-65; col 4, L 13-65

i) a processing module (PROC MOD) which processes content
of messages;/ col 2, L 57-65; col 4, L 3-12; col 16, L 11-23

ii) a packaging module (PAK-MOD) which packages messages
into packets for transport out of the system;/ col 14, L 37-51; col 18, L 9-13

iii) a communication module (COM MOD) which accepts and delivers message
packets; and/ col 5, L 40-55; col 14, L 37-51; col 18, L 9-13

iv) a system control module (CONTROL) which coordinates the
processes of (i), (ii), and (iii);/ col 4, L 3-12

b) during the fabrication of paragraph (a),

i) fabricating identical CONTROL modules in all systems;/ col 4, L 26-35; col 18,
L 1-13

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ii) fabricating identical COM MOD modules in all systems;/ col 4, L 26-35; col 18, L 1-13

iii) fabricating PAK-MOD modules in all systems, such that:

A) copies of a software unit A is contained in every

PAK-MOD module;/ col 4, L 26-35; col 18, L 1-13

B) some PAK-MOD modules contain a software unit B

with no unit C; and/ col 4, L 26-35; col 18, L 1-13

C) some PAK-MOD modules contain a software unit C

with no unit B./ col 4, L 26-35; col 18, L 1-13

As per claim 7,

Method according to claim 6, and further comprising the following step:

iv) fabricating PROC MOD modules in all systems, such that:

A) copies of a software unit D is contained in every

PROC MOD module;/ col 4, L 26-35; col 18, L 1-13

B) some PROC MOD modules contain a software unit E

with no unit F; and/ col 4, L 26-35; col 18, L 1-13

C) some PROC MOD modules contain a software unit F

with no unit E.2. / col 4, L 26-35; col 18, L 1-13

Response to Arguments

4. Examiner respectfully requests the Applicant as to why it is "plainly" that the Yates passage has no relevance in claim 1bi and bii.

5. For claim 6, Attorney creates an indefinite collection by using the tern "at least"

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on the last line of page 8 of the amendment. Clarification is requested.


In re Haza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) holds that a plurality of elements has no patentable significance unless a new and unexpected result is produced. Examiner respectfully finds no new unexpected result. With respect to combinations, the mere rearrangement of elements has no patentable significance unless a new and unexpected result. Examiner respectfully finds no new unexpected result.

This action is NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Steven Wasylchak


1 /19 /03
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